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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,469	03/09/2004	William T. Rapczynski	20051/0200488-US0	3310
7278	7590	03/16/2006		
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER WERNER, JONATHAN S	
			ART UNIT	PAPER NUMBER
			3732	
DATE MAILED: 03/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,469

Applicant(s)

RAPCZYNSKI, WILLIAM T.

Examiner

Jonathan Werner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 7/28/05 is noted. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-8, 12-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sterrett et al. (US 5,049,068). As to claims 1, 3-4, 12-13 and 17, Sterrett discloses an apparatus for applying a light to a tooth with a restorative material attached to it comprising an illumination system with a control module (Figure 7), a light source (82) arranged in the control module, and a light-projecting device (80) that projects light on a tooth being treated, wherein said light comprises at least an ultraviolet component in combination with visible light (column 2, line 61-63), and the light is projected from the light source to the light projecting device through a flexible light conduit (Figure 7). As to claims 5-7, the combination comprises continuous ultraviolet light with continuous visible light or pulsating ultraviolet light with continuous visible

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light or continuous ultraviolet light with pulsating visible light (column 3, lines 54-60; column 4, lines 16-31 & lines 57-68). As to claims 8 and 14, the combination of light comprises alternating pulses of visible and ultraviolet light (column 2, lines 63-64; column 5, lines 6-7). As to claim 15, the light-projecting device is part of a dental handpiece (80).

3. Claims 12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Caplan et al. (US 5,667,291). As to claim 12, Caplan discloses an apparatus for applying a light to a tooth with a restorative material attached to it comprising an illumination system with a control module (column 11, lines 4-8), a light source (column 7, line 54), and a light-projecting device (24) that projects light on a tooth being treated, wherein said light comprises at least an ultraviolet component (column 11, lines 13-15). As to claim 16, the light-projecting device is part of a headset (column 6, lines 14-17).

4. Claims 1-2, 4, 9-12, 15 and 18-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Fischer et al. (US 2003/0215766). As to claims 1, 4 and 12, Fischer discloses an apparatus for applying a light to a tooth with a restorative material attached to it comprising an illumination system with a control module (108), a light source (114), and a light-projecting device (100) that projects light on a tooth being treated, wherein said light comprises at least an ultraviolet component (paragraph 0121). As to claim 2, the dental restoration comprises a filling and the restorative material comprises a composite filling material (256). As to claim 15, the light-projecting device is part of a dental handpiece (Figure 1). As to claim 18, the light source is arranged in the light-projecting device (Figure 1), and the light source is powered from the

control module through an electrical cable (112). As to claim 19, the light source comprises at least one light-emitting diode (paragraph 0062). As to claim 20, the light-emitting diode emits ultraviolet light (paragraph 0121). As to claims 11 and 21, the control module has a user interface that consists of a manually operated control (paragraph 0065). As to claims 9-10 and 22, the user interface is operative to control the intensity of the light (paragraph 0065). Examiner notes that claim 22 recites an intended use of the apparatus, and as such is considered as functional language and therefore is given little patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sterrett or Fischer in view of Lehrer (US 2002/008372). Both Sterrett and Fischer disclose the apparatus as previously described, but fail to show the illumination system comprises a further light-projecting device that is part of a headset in combination with the light-projecting device in the handpiece. Lehrer teaches a light-projecting device that be used as a handpiece or in combination with a headset (Figures 9-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to combine the handpiece light device with the headset light device in order to make it easier for a medical practitioner to perform an operation as taught by Lehrer.

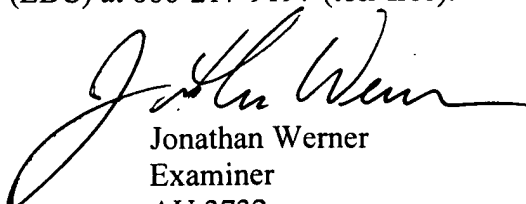
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to included form PTO-892 for all additional pertinent prior art related to light-emitting devices for dentistry.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jonathan Werner
Examiner
AU 3732

3/10/06


MELBA N. BUMGARNER
PRIMARY EXAMINER